

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	01-0705
Northern Illinois Gas Company	:	
	:	
Reconciliation of revenues collected under	:	
gas adjustment charges with actual costs	:	
prudently incurred.	:	
	:	
Illinois Commerce Commission	:	
On Its Own Motion	:	02-0067
-vs-	:	On Reopening
Northern Illinois Gas Company	:	
d/b/a NICOR Gas Company	:	
	:	
Proceeding to review Rider 4, Gas cost,	:	
pursuant to Section 9-244(c) of the Public	:	
Utilities Act.	:	
	:	
Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	02-0725
	:	
Northern Illinois Gas Company	:	
d/b/a NICOR Gas Company	:	
	:	
Reconciliation of revenues collected under	:	(Consolidated)
gas adjustment charges with actual costs	:	
prudently incurred.	:	

MOTION FOR SUBPOENAS

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), through its attorneys, and pursuant to 83 Ill. Adm. Code 200.380 files this Motion for Subpoenas (“Motion”) in the above-captioned proceeding. In support of this Motion, Staff states as follows:

1. The testimony of Rose Gorman, Lonnie Upshaw, and Phil Cali are reasonably required to obtain information that cannot reasonably be obtained through requests for information or other discovery, as demonstrated below.

2. Rose Gorman was employed by Nicor Gas Company (“Nicor” or “Company”) for almost 20 years, and retired from that Company in 2001. Immediately prior to her retirement, she held the position of supervisor of gas accounting for seven years. Prior to that time, she held positions as a financial accountant, a tax accountant, and a general accountant. “Motion to Exclude Rose Gorman as a Witness in This Proceeding,” filed in this proceeding on March 24, 2004.

3. Rose Gorman was Nicor’s supervisor of gas accounting at the times most critical to the creation and implementation of the performance based ratemaking program (“PBR”) that is at the heart of many of the issues in this case. Thus, the availability of her testimony is crucial for the creation of a fully developed evidentiary record, so that the Commission can reach appropriate determinations on these issues. Because Ms. Gorman is not currently employed by Nicor Gas or any other party to this proceeding, a subpoena is necessary to ensure her availability at the evidentiary hearings.

4. Under Section 200.380(c) of the Commission Rules of Practice (83 Ill. Adm. Code 200.380(c)), any application for a subpoena must include a showing that such subpoena is reasonably required to obtain information that cannot reasonably be obtained through requests for information or other discovery. Staff has in fact taken all reasonably possible steps to obtain information from Ms.

Gorman, having participated in her deposition on June 23, 2003, which resulted in a transcript containing some 115 pages of testimony.

5. Because it is not clear that Staff will be permitted to introduce any of that transcribed testimony into the record of this proceeding, Staff must seek a subpoena in order to ensure that Ms. Gorman will be available to provide testimony at the hearings in this proceeding, which are scheduled to begin on April 19, 2004.

6. With respect to Mr. Upshaw and Mr. Cali, both of these individuals are former employees of Nicor Gas, in whose depositions in this proceeding Staff has participated. Both provided deposition testimony addressing issues in this proceeding; their evidence is crucial for the creation of a fully developed record so that the Commission can reach appropriate determinations.

7. As noted above, Section 200.380(c) of the Commission's Rules of Practice requires a showing that a subpoena is reasonably required to obtain information that cannot reasonably be obtained through requests for information or other discovery. Staff has in fact taken all reasonably possible steps to obtain information from these witnesses, having participated in their depositions on June 23, 2003 and July 17 2003, which resulted in transcripts containing some 239 pages of testimony for Mr. Upshaw and 210 pages of testimony for Mr. Cali. The necessity of the information provided by these witnesses for a full and fair consideration of the issues in this proceeding by the Commission is demonstrated by testimony presented by Staff including but not limited to ICC

Staff Exhibit 1.0, pp.74-75 as well as ICC Staff Exhibit 2.0, pp. 7,8,13,41,48, Attachments B and E.

8. A motion concerning the use of certain deposition testimony in the pre-filed testimonies of Staff and the Intervenors is currently pending before the Administrative Law Judges (“ALJs”). (See Motion for Ruling on Use of Discovery Deposition Transcripts in Pre-Filed Testimony, filed February 4, 2004.) Responses to that motion were filed on February 18, and Nicor’s Reply was filed February 25, 2004.

9. Unless it is determined with finality that Staff will be permitted to use the deposition testimony of these two witnesses in Staff’s prefiled testimony, it will be necessary to have these witnesses available at the hearings scheduled to begin April 19, 2004.

10. Section 200.380(d) of the Commission’s Rules of Practice (83 Ill. Adm. Code 200.380(d)) provides in part that “[e]xcept in the case of an emergency, the Commission, a Commissioner or the Hearing Examiner shall not order the issuance of the subpoena until after seven days has been provided for a response.” Staff believes that an emergency exists, in that the availability of these prospective witnesses, or the need for their testimony, is not currently known some 12 days before the beginning of evidentiary hearings, and subpoenas must be issued in order to ensure that they will be available if needed. Staff thus requests that subpoenas be issued by certified or registered mail, return receipt requested, no later than April 9, 2004.

WHEREFORE, for the reasons set forth above, and in view of the emergency described above, Staff respectfully requests that subpoenas substantially in the form of those appended to this Motion for Subpoenas be issued by certified or registered mail, return receipt requested, no later than April 9, 2004.

Respectfully submitted,



JANIS E. VON QUALEN
JOHN J. REICHART
Staff Attorneys

Counsel for the Staff of the
Illinois Commerce Commission

April 7, 2004

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Northern Illinois Gas Company	:	
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prudently incurred.	:	
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On Its Own Motion	:	02-0067
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d/b/a NICOR Gas Company	:	
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On Its Own Motion	:	
-vs-	:	02-0725
	:	
Northern Illinois Gas Company	:	
d/b/a NICOR Gas Company	:	
	:	
Reconciliation of revenues collected under	:	(Consolidated)
gas adjustment charges with actual costs	:	
prudently incurred.	:	

SUBPOENA

To: Rose Gorman
2307 Juniper Street
Cortland Il, 60112
(Phone number not currently available)

By the authority vested in the Illinois Commerce Commission
("Commission") and any Administrative Law Judge of the Commission by Section
10-106 of the Illinois Public Utilities Act, 220 ILCS 5/10-106, and in accordance
with Section 200.380 of the Commission's Rules of Practice, 83 Ill. Adm. Code

200.380, you are hereby summoned and commanded to appear before Administrative Law Judges Haynes and Dolan at the offices of the Illinois Commerce Commission, 160 N. LaSalle Street, Suite C-800, Chicago, Illinois 60601, at 10:00 a.m. on April 19, 2004, or at such later time as you are advised by Administrative Law Judges Dolan and Haynes or counsel in this proceeding authorized by the Administrative Law Judges to so advise you, and then and there testify under oath concerning issues pending before the Commission in the cases captioned above.

Any person who fails to comply with this subpoena shall be guilty of a Class A misdemeanor, pursuant to Section 10-106 of the Public Utilities Act, 220 ILCS 5/10-106.

Entered this __ day of April, 2004.

Chief Clerk

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gas adjustment charges with actual costs	:	
prudently incurred.	:	

SUBPOENA

To: Lonnie Upshaw
Care of his attorney George Gilkerson
Rooks, Pitts and Poust
10 S. Wacker Drive (Suite 2300)
Chicago, IL 60606
(630) 577-2828

By the authority vested in the Illinois Commerce Commission
("Commission") and any Administrative Law Judge of the Commission by Section

10-106 of the Illinois Public Utilities Act, 220 ILCS 5/10-106, and in accordance with Section 200.380 of the Commission's Rules of Practice, 83 Ill. Adm. Code 200.380, you are hereby summoned and commanded to appear before Administrative Law Judges Haynes and Dolan at the offices of the Illinois Commerce Commission, 160 N. LaSalle Street, Suite C-800, Chicago, Illinois 60601, at 10:00 a.m. on April 19, 2004, or at such later time as you are advised by Administrative Law Judges Dolan and Haynes or counsel in this proceeding authorized by the Administrative Law Judges to so advise you, and then and there testify under oath concerning issues pending before the Commission in the cases captioned above.

Any person who fails to comply with this subpoena shall be guilty of a Class A misdemeanor, pursuant to Section 10-106 of the Public Utilities Act, 220 ILCS 5/10-106.

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SUBPOENA

To: Phil Cali
Care of his attorney Daniel M. Purdom
4343 Commerce Court (Suite 415)
Lisle, IL 60532
(630) 505-0010

By the authority vested in the Illinois Commerce Commission
("Commission") and any Administrative Law Judge of the Commission by Section
10-106 of the Illinois Public Utilities Act, 220 ILCS 5/10-106, and in accordance

with Section 200.380 of the Commission's Rules of Practice, 83 Ill. Adm. Code 200.380, you are hereby summoned and commanded to appear before Administrative Law Judges Haynes and Dolan at the offices of the Illinois Commerce Commission, 160 N. LaSalle Street, Suite C-800, Chicago, Illinois 60601, at 10:00 a.m. on April 19, 2004, or at such later time as you are advised by Administrative Law Judges Dolan and Haynes or counsel in this proceeding authorized by the Administrative Law Judges to so advise you, and then and there testify under oath concerning issues pending before the Commission in the cases captioned above.

Any person who fails to comply with this subpoena shall be guilty of a Class A misdemeanor, pursuant to Section 10-106 of the Public Utilities Act, 220 ILCS 5/10-106.

Entered this ____ day of April, 2004.

Chief Clerk